

ing from the suspension plus a reasonable allowance for overhead with respect to such costs.

[Amended by 1973 c.738 §3]

279.330 Compensation when contract terminated. In the event of termination of a public contract pursuant to ORS 279.326, provision shall be made for the payment of compensation to the contractor. In addition to a reasonable amount of compensation for preparatory work and for all costs and expenses arising out of termination, the amount to be paid to the contractor:

(1) Shall be determined on the basis of the contract price in the case of any fully completed separate item or portion of the work for which there is a separate or unit contract price; and

(2) May, with respect to any other work, be a percent of the contract price equal to the percentage of the work completed.

[Amended by 1973 c.738 §4]

279.332 Contractual provisions for compensation when contract terminated due to public interest. Any public body may provide in any public works contract detailed provisions under which the contractor shall be entitled, as a matter of right, to compensation upon termination of the contract on account of any reason considered to be in the public interest.

[Amended by 1973 c.738 §5]

279.333 Application of ORS 279.324 to 279.330. ORS 279.324 to 279.330 shall not apply to suspension of the work or termination of the contract which occur as a result of the contractor's violation of federal, state or local statutes, ordinances, rules or regulations in existence at the time the contract was executed or as a result of violations of the terms of the contract.

[1973 c.738 §6]

279.334 Maximum hours of labor on public contracts. In all cases where labor is employed by the state, county, school district, municipality, municipal corporation, or subdivision, through a contractor, no person shall be required or permitted to labor more than eight hours in any one day, or 40 hours in any one week, except in cases of necessity, emergency, or where the public policy absolutely requires it, in which event, the person or persons so employed for excessive hours shall receive at least time and a half pay for all overtime in excess of eight hours a day, and for work performed on Saturday and on any legal holiday specified in ORS 187.010, except

Veterans Day. However, when specifically agreed to under a written labor-management negotiated labor agreement, a laborer may be paid at least time and a half pay for work performed on Veterans Day or on any legal holiday specified in ORS 187.020. This section shall not apply to labor performed in the prevention or suppression of fire under contracts and agreements made pursuant to the authority of the State Forester or State Board of Forestry, under ORS 477.406.

[Amended by 1963 c.241 §1; 1967 c.167 §2]

279.336 Time limitation on claim for overtime; posting of circular by contractor. Where labor is employed by the state, county, school district, municipality, municipal corporation or subdivision, through another as a contractor, any workman employed by the contractor shall be foreclosed from the right to collect for any overtime provided in ORS 279.334 unless a claim for payment is filed with the contractor within 90 days from the completion of the contract, providing the contractor has:

(1) Caused a circular clearly printed in blackface pica type and containing a copy of this section to be posted in a prominent place alongside the door of the timekeeper's office or in a similar place which is readily available and freely visible to any or all men employed on the work.

(2) Maintained such circular continuously posted from the inception to the completion of the contract on which workmen are or have been employed.

279.338 Length of day's labor on public works. (1) Eight hours shall constitute a day's labor in all cases where the state, county, school district, or any municipality, municipal corporation or subdivision is the employer of labor, either directly or indirectly, by contract with another.

(2) This section does not apply to the employment by any contractor of work for the state, county, school district, or any municipality, municipal corporation, or subdivision thereof, of foremen, watchmen and timekeepers paid on monthly rate.

279.340 Overtime for labor directly employed by counties, municipalities, municipal corporations, school districts and subdivisions. Labor directly employed by a county, municipality, municipal corporation, school district or subdivision shall be allowed overtime as follows:

(1) Overtime shall be compensated, if budgeted funds for such purpose are available, for overtime worked in excess of eight hours in any one day or 40 hours in any one week, at not less than one and one-half times the regular rate of such employment. If budgeted funds are not available for the payment of overtime, such overtime shall be allowed in compensatory time off at not less than time and a half for employment in excess of eight hours in any one day or 40 hours in any one week.

(2) Notwithstanding the provisions of subsection (1) of this section, if a county, municipality, municipal corporation, school district or subdivision adopts a 10-hour day and a four-day week for any of its laborers, such laborers shall be allowed overtime compensation for employment in excess of 10 hours in any one day.

[Amended by 1973 c.418 §1]

279.342 Exceptions to ORS 279.340.

The provisions of ORS 279.340 relating to pay for overtime shall not apply to:

(1) Labor employed in forest fire fighting.

(2) Employees of any irrigation system district actually engaged in the distribution of water for irrigation or domestic use.

(3) Fire or police protection personnel employed by any fire or police department of any municipal corporation.

(4) Employment less than 10 hours in any one day where labor is directly employed on a four-day workweek.

(5) Employees exempted from overtime by a county, municipality, municipal corporation, school district or subdivision because of the executive, administrative, supervisory or professional nature of their employment as the nature of such employment is defined by rule of the Commissioner of the Bureau of Labor or by a collective bargaining agreement.

[Amended by 1953 c.579 §3; 1955 c.510 §1; 1967 c.67 §1; 1973 c.460 §1; 1975 c.770 §1; 1977 c.388 §1]

279.344 [Repealed by 1953 c.577 §2]

279.346 [Repealed by 1953 c.577 §2]

279.348 Definitions for ORS 279.348 to 279.356. As used in ORS 279.348 to 279.356, unless the context requires otherwise:

(1) "Prevailing rate of wage" means the rate of hourly wage and overtime, including all fringe benefits under subsection (4) of this section, paid in the locality to the majority of workers in the same trade or occupation, as

determined by the Commissioner of the Bureau of Labor. If there is not a majority in the same trade or occupation paid at the same rate, the average rate of hourly wage and overtime, including all fringe benefits under subsection (4) of this section, paid in the locality to workers in the same trade or occupation shall be the prevailing rate. If the wage paid by any contractor or subcontractor to workers on any public work is based on some period of time other than an hour, the hourly wage shall be mathematically determined by the number of hours worked in that period of time. If data necessary to determine the prevailing rate of wage in a locality is not available, the Commissioner of the Bureau of Labor may adopt the prevailing rate of wage as determined by the Secretary of Labor of the United States.

(2) "Locality" means the largest city and its immediate vicinity in the following districts in which the public work is to be performed:

(a) District 1, composed of Clatsop, Columbia and Tillamook Counties;

(b) District 2, composed of Clackamas, Multnomah and Washington Counties;

(c) District 3, composed of Marion, Polk and Yamhill Counties;

(d) District 4, composed of Benton, Lincoln and Linn Counties;

(e) District 5, composed of Lane County;

(f) District 6, composed of Douglas County;

(g) District 7, composed of Coos and Curry Counties;

(h) District 8, composed of Jackson and Josephine Counties;

(i) District 9, composed of Hood River, Sherman and Wasco Counties;

(j) District 10, composed of Crook, Deschutes and Jefferson Counties;

(k) District 11, composed of Klamath and Lake Counties;

(L) District 12, composed of Gilliam, Grant, Morrow, Umatilla and Wheeler Counties;

(m) District 13, composed of Baker, Union and Wallowa Counties; and

(n) District 14, composed of Harney and Malheur Counties.

(3) "Public works" includes all public works of the state or of any county, city, district, authority, public corporations or

Towns - below